

**§ 303.151 Waiver of the policy adoption requirement for the third year.**

The Secretary may award a grant to a State under this part for the third year even if the State has not adopted the policy required in § 303.150(b), if the State, in its third year application, includes a statement requesting a waiver, including—

(a) Information demonstrating that the State has made a good faith effort to adopt a policy that meets the requirements in § 303.150(b)(1) and (b)(2);

(b) The reasons why the State was unable to meet the timeline for policy adoption, and the steps remaining before the policy will be adopted; and

(c) An assurance that, except as provided in § 303.341(a), the policy required in § 303.150(b)(1) and (b)(2) will be adopted and go into effect no later than the beginning of the State's fourth year of participation under this part.

(Approved by the Office of Management and Budget under control number 1820–0550)

(Authority: 20 U.S.C. 1475(b)(2))

NOTE: An example of when the Secretary may grant a waiver is a situation in which a State's policy is awaiting action by the State legislature, but the legislative session does not commence until after the State's application must be submitted.

**§ 303.152 Fourth year applications.**

A State's application for the fourth year of participation under this part must contain—

(a) The information required in §§ 303.141 through 303.148;

(b) Information and assurances to demonstrate that—

(1) The requirements in § 303.150(b)(1) and (b)(2) are met; and

(2) Subject to § 303.341(a), the statewide system of early intervention services is in effect, or will be in effect no later than the beginning of the fourth year of the State's participation under this part;

(c) Information and assurances required in §§ 303.161 through 303.176; and

(d) Other information that the Secretary may require.

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(Authority: 20 U.S.C. 1475(b), 1478(a))

**§ 303.153 States with mandates as of September 1, 1986, to serve children with disabilities from birth.**

(a) Subject to the requirements in paragraph (b) of this section, a State that has in effect a State law, enacted before September 1, 1986, that requires the provision of a free appropriate public education to children with disabilities from birth through age two is eligible for a grant under this part for the first through the fourth year of its participation.

(b) A State meeting the conditions in paragraph (a) of this section must—

(1) Have on file with the Secretary a statement of assurances containing the information required in §§ 303.121 through 303.128;

(2) Submit an annual application for years one through four that contains the information in §§ 303.141 through 303.148;

(3) Meet the public participation requirements in §§ 303.110 through 303.113; and

(4) Provide a copy of the State law that requires the provision of a free appropriate public education to children with disabilities from birth through age two.

(c) In order to receive funds under this part for the fifth and succeeding years, the State must submit an application that meets the requirements in § 303.154.

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(Authority: 20 U.S.C. 1475(d))

**§ 303.154 Applications for year five and each year thereafter.**

(a) *Fifth year application.* A State's application for the fifth year of its participation under this part must contain—

(1) The information and assurances required in §§ 303.141 through 303.148 and §§ 303.161 through 303.176;

(2) Information and assurances demonstrating to the satisfaction of the Secretary that the statewide system of early intervention services required in this part is in effect;

(3) A policy that, no later than the beginning of the fifth year of the State's participation, appropriate early intervention services will be available